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Attorneys for Nominal Defendant  
OCLARO, INC.

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

TOBY AGUILAR, derivatively on behalf of  
OCLARO, INC.,

Case No. 11-CV-3668-EMC  
(Derivative Action)

Plaintiff,

1

BERNARD COUILLAUD, GREG DOUGHERTY,  
EDWARD COLLINS, LORI HOLLAND,  
GIOVANNI BARBAROSSA, ALAIN COUDER,  
JOEL A. SMITH III, JERRY TURIN, and JAMES  
HAYNES

**STIPULATION AND [PROPOSED]  
ORDER DISMISSING AGUILAR V.  
COUILLAUD WITHOUT PREJUDICE  
AND WITHOUT COSTS TO ANY  
PARTY**

## Defendants

and

OCLARO, INC.

### Nominal Defendant.

WHEREAS, on July 26, 2011, plaintiff Toby Aguilar commenced a derivative action against nominal defendant Oclaro, Inc. (“Oclaro”), and defendants Alain Couder, Jerry Turin, James Haynes, Bernard Couillaud, Giovanni Barbarossa, Edward Collins, Greg Dougherty, Lori Holland, and Joel A. Smith III;

WHEREAS, on September 8, 2011, plaintiff served Oclaro, but has not served the other defendants;

WHEREAS, on September 14, 2011, this Court denied the motion to consolidate Aguilar's action into *In re Oclaro, Inc. Derivative Litigation*, Lead Case No. 11-CV-3176, without prejudice;

WHEREAS, the parties have met and conferred regarding dismissal of Aguilar's action;

WHEREAS, none of the defendants has provided or promised anything of value to plaintiff or plaintiff's counsel as an inducement to dismiss this action; and

WHEREAS, the parties concur that notice to Oclaro shareholders is not required since *In re Oclaro Derivative Litigation* has not been dismissed:

NOW THEREFORE, plaintiff and Oclaro, by and through their undersigned counsel, hereby stipulate as follows:

*Aguilar v. Couillaud*, No. 11-CV-3668-EMC (N.D. Cal. filed July 26, 2011), is hereby dismissed without prejudice and without costs to any party.

ALSTON & BIRD LLP

DATED: Menlo Park, California  
September 26, 2011

By: *s/Gidon M. Caine*  
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6 Counsel for Nominal Defendant Oclaro, Inc.

7 **FINKELSTEIN THOMPSON LLP**

8 DATED: San Francisco, California  
9 September 26, 2011

10 By: s/ Mark Punzalan  
11 MARK PUNZALAN (Cal. State Bar No. 247599)  
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13 Counsel for Plaintiff Toby Aguilar

14 ~~[PROPOSED]~~ ORDER

15 UPON STIPULATION OF THE PARTIES, AND FOR GOOD CAUSE SHOWN, IT IS  
16 HEREBY ORDERED THAT:

17 1. *Aguilar v. Couillaud*, No. 11-CV-3668-EMC (N.D. Cal. filed July 26, 2011) is hereby  
18 dismissed without prejudice and without costs to any party.

19 2. The parties need not provide notice of this dismissal to Oclaro, Inc.'s shareholders.

20 3. The clerk is directed to enter the dismissal of this action forthwith.

21 **IT IS SO ORDERED.**

22  
23 DATED: San Francisco, California  
24 September 2011  
25 October 5, 2011

26 The Hon. Edward M. Chen  
United States District Court  
27

28 IT IS SO ORDERED  
Judge Edward M. Chen



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2  
3 I, Gidon M. Caine, am the ECF User whose ID and password are being used to file this Joint  
4 Case Management Statement. In compliance with General Order No. 45, X.B., I hereby attest that  
5 Mark Punzalan has concurred in this filing.

6 *s/ Gidon M. Caine*  
7 GIDON M. CAINE

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